

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ANGELICA C. WINN,

No. 6:14-cv-00564-HZ

Plaintiff,

OPINION & ORDER

v.

CAROLYN COLVIN,
Acting Commissioner of Social Security,

Defendant.

Drew L. Johnson
DREW L. JOHNSON, P.C.
1700 Valley River Drive
Eugene, OR 97405

Kathryn Tassinari
HARDER, WELLS, BARON & MANNING, P.C.
474 Willamette, Suite 200
Eugene, OR 97401

Attorneys for Plaintiff

Billy J. Williams
Acting United States Attorney, District of Oregon
Ronald K. Silver
Assistant United States Attorney
U.S. ATTORNEY'S OFFICE, DISTRICT OF OREGON
1000 SW Third Avenue, Suite 600
Portland, OR 97204

Alexis L. Toma
SOCIAL SECURITY ADMINISTRATION
Office of the General Counsel
701 Fifth Avenue, Suite 2900 M/S 221A
Seattle, WA 98104

Attorneys for Defendant

HERNÁNDEZ, District Judge:

On November 4, 2010, Plaintiff Angelica Winn applied for Disability Insurance Benefits (DIB) under Title II of the Social Security Act. The Commissioner of Social Security denied Plaintiff's application. Tr. 101-107. On September 25, 2012, Plaintiff appeared, with counsel, for a hearing before an Administrative Law Judge (ALJ). Tr. 36-78. On December 27, 2012, the ALJ found Plaintiff not disabled. Tr. 12-23. The Appeals Council denied review. Tr. 1-4. Plaintiff sought judicial review of the Commissioner's denial of benefits.

On April 21, 2015, this Court entered an Opinion & Order reversing the Commissioner's decision and remanding the case pursuant to sentence four of 42 U.S.C. 405(g) for an immediate award of benefits. Opinion & Order, April 21, 2015, ECF 22. A Judgment was entered in favor of Plaintiff on that same date. Judgment, April 21, 2015, ECF 23.

The Commissioner now moves to alter or amend the Judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. Familiarity with this Court's prior Opinion & Order is presumed. The Court grants the Commissioner's motion.

STANDARD

Amendment of a judgment is appropriate under Rule 59(e) if “(1) the district court is presented with newly discovered evidence, (2) the district court committed clear error or made an initial decision that was manifestly unjust, or (3) there is an intervening change in controlling law.” DiRaffael v. California Military Dep’t, 593 F. App’x 679, 680 (9th Cir. 2015) (quoting Zimmerman v. City of Oakland, 255 F.3d 734, 740 (9th Cir. 2001)).

DISCUSSION

This Court conducted a careful review of its prior Opinion & Order as well as the full administrative record in this case. The Court concludes that it committed clear error in ordering that the case be remanded for an award of benefits.

The Ninth Circuit Court of Appeals has devised a three-part credit-as-true standard, each part of which must be satisfied in order for a court to remand to an ALJ with instructions to calculate and award benefits:

- (1) the ALJ has failed to provide legally sufficient reasons for rejecting evidence, whether claimant testimony or medical opinion;
- (2) the record has been fully developed and further administrative proceedings would serve no useful purpose; and
- (3) if the improperly discredited evidence were credited as true, the ALJ would be required to find the claimant disabled on remand.

Treichler v. Comm’r of Soc. Sec. Admin., 775 F.3d 1090, 1100-01 (9th Cir. 2014).

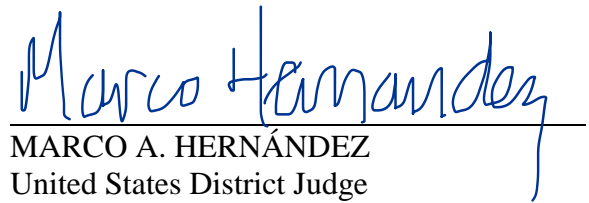
Upon further consideration of this case, the Court determines that the second prong of the credit-as-true standard has not been met. The Court remands the case in order for the ALJ to further develop the record as to the impact of the frequency of Plaintiff’s syncopal episodes on her ability to work. See id. at 1101 (“Where there is conflicting evidence, and not all essential factual issues have been resolved, a remand for an award of benefits is inappropriate.”).

CONCLUSION

The Court grants Defendant's Motion to Alter or Amend Judgment [25]. The Commissioner's decision is reversed and remanded for additional proceedings.

IT IS SO ORDERED.

Dated this 9 day of June, 2015


MARCO A. HERNÁNDEZ
United States District Judge